

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1, 5, 8, and 17-21 are pending in the application, with claims 1 and 18 being the independent claims. Claims 2-4, 6, 7, and 9-16 are sought to be cancelled without prejudice to or disclaimer of the subject matter therein. New claims 18-21 are sought to be added, support for which may be found, *inter alia*, at pages 20-23 in the application as filed. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendments and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Rejections under 35 U.S.C. § 103

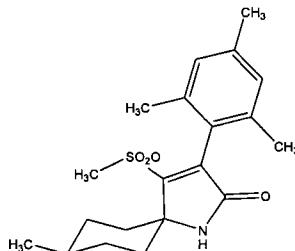
The rejection of claims 1-5, 8 and 17 under 35 U.S.C. § 103(a) as allegedly being unpatentable over WO 01/74770A1 ("Ruther") is respectfully traversed.

The Examiner maintains her opinion that the compounds of the present invention would have been obvious in light of Ruther. However, the Office Action recites that the rejection of a portion of the elected invention has been overcome. Merely for the sake of advancing prosecution and not in acquiescence of the rejection, Applicants have amended claims 1 and 5 to reflect the scope of the invention for which the rejection has been overcome. Claims 8 and 17 depend on claim 1 and their rejection should therefore be overcome. Claims 2-4 have been cancelled and therefore their rejection is rendered moot.

Applicants therefore respectfully submit that the above obviousness rejection is rendered moot and should therefore be withdrawn.

The rejection of claims 1-5 and 8 under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 5,462,913 ("Fischer") in view of Wolff, M.E., *Burger's Medicinal Chemistry 4th Ed. Part 1*, Wiley: New York, 1979, 336-337 ("Wolff"), is respectfully traversed.

The Examiner maintains her opinion that the claimed compounds of the present invention would have been obvious in light of Fischer, in view of Wolff. The Examiner has asserted that a compound disclosed in Fischer



(Example Id-1)

differs from the substitution of a methyl for an ethyl of the rejected claims. Additionally, the Examiner has suggested that since Wolff teaches "that the addition of alkyl groups to active pharmaceutical agents often improves activity," it would have been obvious to modify Id-1 to arrive at a compound of the current application. Office Action, page 5.

In the reply of March 30, 2009, Applicants argued that this analysis is entirely improper. Furthermore, claim 1 as amended differs from the Fischer compound by more than a methyl for ethyl substitution at the 2-position of the phenyl ring. Specifically, claim 1

recites that G represents $\begin{array}{c} \text{O} \\ \parallel \\ \text{C}-\text{R}^1 \end{array}$ in which R^1 represents in each case optionally substituted

cycloalkyl, alkyl, alkoxyalkyl or polyalkoxyalkyl. Accordingly, claim 1 is not obvious in light of Fischer, in view of Wolff. Claims 5, 8 and 17 depend on claim 1 and their rejection should therefore be overcome. Claims 2-4 have been cancelled and therefore their rejection is rendered moot.

Applicants therefore respectfully submit that the above obviousness rejection is rendered moot and should therefore be withdrawn.

Provisional Obviousness-Type Double Patenting Rejection

The rejection of claims 1-5, 8 and 17 under 35 U.S.C. § 103(a) as allegedly being unpatentable on the ground of obviousness-type double patenting over claims 1-3 of Fischer in view of Wolff, is respectfully traversed.

The Examiner has rejected claims 1-5, 8 and 17 for nonstatutory double patenting for the same reasons as recited above for the 103(a) rejections. Therefore, Applicants submit that the arguments above render this rejection moot and hereby request that the rejection be withdrawn.

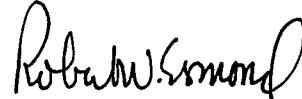
Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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